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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,244	06/28/2001	Sreeram Duvvuru	P6197	9154
35690	7590	11/13/2006		EXAMINER
				LESNIEWSKI, VICTOR D
			ART UNIT	PAPER NUMBER
				2152

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/896,244	DUVVURU, SREERAM	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victor Lesniewski	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER; FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 August 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendment filed 8/30/2006 has been placed of record in the file.
2. Claims 1, 10, and 19 have been amended.
3. Claims 1-27 are now pending.
4. The applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the following new grounds of rejection.

#### ***Continued Examination Under 37 CFR 1.114***

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous office action has been withdrawn pursuant to 37 CFR 1.114. The applicant's submission filed on 8/30/2006 has been entered.

#### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 10-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 10-18 recite descriptive material that may or may not be an embodiment of a computer system or embodied on a computer readable medium so as to be executable. Here, "a computer-readable medium" does not constitute eligible subject matter for patentability. See MPEP 2106.IV.B.1.

8. The applicant's specification defines a computer-readable medium in terms of both statutory and non-statutory embodiments. See the specification, page 14, line 24 through page 15, line 8. The "transmission media" embodiment is considered non-statutory as a signal encoded with functional descriptive material does not fall within any of the categories of patentable subject matter set forth in 35 U.S.C. 101. A claim that can be read so broadly as to include statutory and non-statutory subject matter must be amended to limit the claim to a practical application.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mangipudi et al. (U.S. Patent Number 6,728,748), hereinafter referred to as Mangipudi, in view of Lin et al. (U.S. Patent Number 6,463,068), hereinafter referred to as Lin.

11. Mangipudi disclosed a method for policy based class of service management that utilizes multiple class of service levels. In an analogous art, Lin disclosed a router that includes a classifier that classifies packets based on class of service.

12. Concerning claims 1, 10, and 19, Mangipudi did not explicitly state that the propagating step includes sending data indicating the quality of service context with the request. However, sending data with a request that indicates the quality of service context was well known in the art

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as evidenced by Lin whose system writes tag information into the request so that the class of service of the packet may be identified. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Mangipudi by adding the ability to send data indicating the quality of service context with the request as provided by Lin. Here the combination satisfies the need for a routing system that can be flexibly designed and implemented and that ensures that users are directed to web servers and content commensurate with their service levels. See Mangipudi, column 6, lines 33-41. This rationale also applies to those dependent claims utilizing the same combination.

13. Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a computer readable medium or a system are rejected under the same rationale applied to the described claim. The below citations refer to Mangipudi unless otherwise noted.

14. Thereby, the combination of Mangipudi and Lin discloses:

- <Claims 1, 10, and 19>

A computer-implemented method for providing differentiated quality of service in an application server, comprising: a server system receiving a request, wherein said request includes information indicating at least one of user identity, current user role, or a time constraint (column 9, lines 55-61); and in response to receiving the request: accessing pre-determined policy data (column 9, lines 45-51); establishing a quality of service context based on said information included in said request and said policy data (column 9, lines 37-51); and propagating said quality of service context with said request in the server system (column 10, lines 25-31), wherein said propagating comprises sending data

indicating the quality of service context with the request (Lin, column 3, lines 12-25 and 45-55).

- <Claims 2, 11, and 20>

The method of claim 1, wherein said information further indicates a requested service (column 7, lines 6-9).

- <Claims 3, 12, and 21>

The method of claim 1 wherein said quality of service context includes information indicating at least one of service class, priority, or deadline (column 9, lines 45-51).

- <Claims 4, 13, and 22>

The method of claim 1 wherein said establishing a quality of service context is completed at an ingress point (column 7, lines 9-16).

- <Claims 5, 14, and 23>

The method of claim 4 wherein said ingress point is at least one of a web server or a protocol manager service within said server system (column 9, line 65 through column 10, line 9).

- <Claims 6, 15, and 24>

The method of claim 1 further comprising, propagating the same quality of service context with a subsequent request related to said request (column 11, lines 38-41).

- <Claims 7, 16, and 25>

The method of claim 1 wherein said propagating includes inserting said quality of service context adjacent to at least one of a security and transaction context (column 10, lines 21-25).

- <Claims 8, 17, and 26>

The method of claim 1 wherein a load balancing service dispatches said request including said quality of service context, to an application server in a plurality of application servers, based on said quality of service context (column 10, lines 25-31).

- <Claims 9, 18, and 27>

The method of claim 1 wherein a request manager service dispatches said request including said quality of service context, to a component in a plurality of components, based on said quality of service context (column 10, lines 25-31).

Since the combination of Mangipudi and Lin discloses all of the above limitations, claims 1-27 are rejected.

### *Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Martin (U.S. Patent Number 6,154,776) disclosed a system that enables allocation of a QoS to a flow on a network.
- Rawat et al. (U.S. Patent Number 6,446,122) disclosed a method for allowing a switch to provide QoS information to a router or other network device.
- Colby et al. (U.S. Patent Number 6,449,647) disclosed a content-aware flow switch that intercepts a client content request and transparently directs the request to a best-fit server.

- Maher, III et al. (U.S. Patent Number 6,957,258) disclosed a policy gateway that includes a QoS processor which modifies and directs the data packets in a manner consistent with network policies.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Victor Lesniewski  
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